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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/680,737

10/07/2003

Kim Sutton-Rainey

RAIN-1-1005

5294

25315

7590

10/12/2006

BLACK LOWE & GRAHAM, PLLC
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EXAMINER

GEHMAN, BRYON P

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 10/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/680,737

Applicant(s)

SUTTON-RAINEY ET AL.

Examiner

Bryon P. Gehman

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. Applicant's election without traverse of Species I in the reply filed on October 14, 2005 is acknowledged.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 6-12, 14-15, 18 and 20 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Maroszek (5,052,552). Disclosed is a multi-use carrier comprising a single die-cut sheet (12) made of a flexible material having a first plurality of crease lines (82-88), a second plurality of crease lines (58-64 and 106-108), a handle cutout (136 and 138), a plurality of slots (46, 48), a plurality of tabs (112, 114) and a plurality of vessel apertures (116-122 and 128-134), whereby a first pivoting action (Figure 5) substantially erects the single die-cut sheet to an expanded carrier having the handle cutout define a handle (40) and the plurality of vessel apertures disposed along the perimeter of the carrier and a second pivoting action (From Figure 2 to Figure 1) engages the plurality of tabs (112, 114) with the plurality of slots (46, 48) to form a central chamber (inside panels 14, 16, 42 and 44) spanned by the handle and surrounded by the plurality of vessel apertures (as much as applicants').

As to claims 2-3 and 11-12, the vessel apertures disclosed are substantially circular apertures.

As to claims 6-9, 14-15 and 20, the described surfaces of Maroszek are inherently capable of receiving messages and images if so provided. A recitation of the intended use of the claimed invention (or portion thereof) must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

As to claim 18, Figure 5 indicates a three layer folding.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3, 6-12, 14-18 and 20 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Maroszek. To any degree the claimed carrier and sheet may be argued to not be exactly met by the carrier and sheet of Maroszek as described, those differences are held to be inherent or fall within the realm of common knowledge in the art.

As to claims 2-3 and 11-12, the various aperture shapes recited are disclosed as obvious variants of one another and such is also maintained by the examiner.

As to claims 6-9, 14-15 and 20, the described surfaces of Maroszek are inherently capable of receiving messages and images if so provided.

As to claims 16 and 17, the particular dimensioning of the sheet and carrier is not seen to provide any new and unexpected result.

6. Claims 4-9, 13-15 and 19-20 are further finally rejected under 35 U.S.C. 103(a) as being unpatentable over Maroszek in view of Picciolo (5,797,486). As to claims 4-5, 13 and 19, Picciolo discloses a carrier and sheet made from paper material, such as cardboard. To modify the carrier and sheet of Maroszek employing paper material such as cardboard would have been an obvious substitution of materials already well known in the field, as demonstrated by Picciolo. The various particular materials recited are disclosed as obvious variants of one another and such is also maintained by the examiner.

As to claims 6-9, 14-15 and 20, Picciolo discloses providing the handle with various indicia (printed messages and indicia, see column 3, lines 20-41) to provide information. The various recited indicia locations are disclosed as obvious variants of one another and such is maintained by the examiner.

7. Applicant's arguments filed October 14, 2005 have been fully considered but they are not persuasive. With respect to applicants' arguments with respect to a second pivoting action, Maroszek discloses a second pivoting action (going from the disposition of Figure 2 to the disposition of Figure 1) that serves to engage tabs (112 and 114) with slots (46 and 48) to form a central chamber (inside panels 14, 16, 42 and 44) spanned

by a handle (36 and 40) and surrounded (in one dimension, same as applicants disclosed structure) by a plurality of vessel apertures (116-122).

The argument with respect to sub-chambers is not found convincing, as such are not defined by the pending claims.

With respect to the central chamber surfaces of Maroszek, they are capable of receiving printed informational messages and images. That they actually do is not claimed.

With respect to applicants' central chamber, such has not been distinguished structurally from the central chamber of Maroszek in any manner.

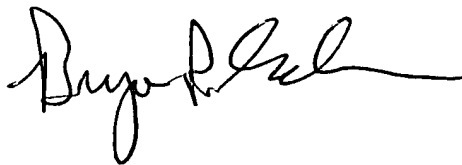
8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (571) 272-4555. The examiner can normally be reached on Monday through Wednesday from 5:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-4555.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Bryon P. Gehman', with a stylized, flowing script.

Bryon P. Gehman
Primary Examiner
Art Unit 3728

BPG